

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING
COMMITTEE MEETING MINUTES
Thursday, October 3, 2013**

CALL TO ORDER

Committee Chair Starshak called the meeting of the Land Use Planning and Zoning Committee to order at 4:30 p.m. in the Green Lake County Government Center, County Board Room #0902, Green Lake, WI. The requirements of the open meeting law were certified as being met.

Present: **Eugene Henke, Ben Moderow, Don Peters, Harley Reabe, Michael Starshak**

Absent:

Also Present: **Al Shute**, County Surveyor/Land Development Director
Matt Kirkman, Code Enforcement Officer
Missy Sorenson, Code Enforcement Officer
Carole DeCramer, Committee Secretary

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Motion by Henke/Reabe, unanimously carried, to approve the amended agenda.

APPROVAL OF MINUTES

Motion by Peters/Moderow, unanimously carried, to approve the corrected September 5, 2013, minutes.

PUBLIC APPEARANCES

a. Elmer Bock – Discuss Landmark Services activities

Elmer Bock, W1618 County Road S – Discussed Landmark Services issues; i.e. dust and noise.

Peters requested that the company document when they water for dust control. Henke asked that they do the same with noise testing.

Shute stated that he had heard from Landmark and they said that they would provide further decibel readings after testing for noise. He will ask that they log the watering times as well.

Bock asked that they do some of the decibel readings right next to his house.

PUBLIC COMMENTB - None

JASON VALERIUS, MSA – DISCUSS MANDATED UPDATES FOR FARMLAND PRESERVATION AND COMPREHENSIVE PLANNING

Shute – Jason Valerius provided updates regarding grant funding for Farmland Preservation and Comprehensive Planning. The State had sent out an email that said that the funding had been restored; however, the grant money will be awarded to the 2012 grant applications only. Mr. Valerius is projecting that the two plans will cost approximately \$60,000 and \$20,000, for a total of \$80,000 for the two plans. If the committee would want to do a citizen survey, that would cost an additional \$10,000. Some money is set aside for these projects with a shortage of about \$20,000-\$25,000. Regarding the grant money, if the funding is restored, it's not guaranteed.

The committee could start the update with the risk that grant money would not be available. The plans have to be updated whether grant money is awarded to the county or not. The timeframe for completing the updates is between 12-18 months. The county's current Farmland Preservation Plan expires the end of 2014 and the Comprehensive Plan expires at the end of 2013.

Starshak – Asked if there is a detriment to waiting to see if the county would receive funding for the plans.

Shute warned that, if decisions are made based on an old plan, the county could be challenged in court.

Attorney Steve Sorenson, Davis & Kuelthau, S.C., 210 Washington Avenue, Oshkosh, WI (who was in attendance for an unrelated agenda item) – Advised the committee that the county could lose the farmland preservation credits if the county would not get an extension and let the plan lapse. The State could also provide the county with a plan.

The committee agreed to wait until the next meeting to discuss this again.

CORRESPONDENCE - None

PURCHASES - None

CLAIMS

Claims totaling \$917.34 were submitted.

Motion by Reabe/Henke, unanimously carried, to approve for payment the claims in the amount of \$797.37 for Land Use Planning & Zoning and \$120.00 for Land Information, for a total of \$917.34.

APPROVAL OF DEPARTMENT ACTIVITY REPORTS

- a. Permits, public hearings, etc.
- b. Violations

Shute – Discussed the various aspects of the reports.

Motion by Henke/Moderow, unanimously carried, to approve the monthly activity reports.

CONTINUED DISCUSSION OF DEEP HIGH CAPACITY IRRIGATION WELLS

Starshak – In addition to last month's meeting and the information on this issue that was distributed and discussed by Land Conservationist Jim Hebbe, there is additional information provided for this month's meeting including a senate bill that is coming up that will make it easier to obtain permits for the high capacity irrigation wells. After speaking with the state representative about this topic, he asked that the information be forwarded to him since he had no information on any of this. All of this information is more of an "FYI" because it's more of a Land Conservation issue; however, land use will be impacted by this at some time. The committee will continue to take a proactive approach to this issue.

DISCUSS ESTATES OF LAWSONIA PLAT THAT WAS APPROVED WITH THE CONDITION OF AN OUTLOT REMAINING AN OPEN, GREEN SPACE AS STATED IN THE RESTRICTIVE COVENANTS

Shute – Summarized that in 2009, the ABA completed a several-year long review of a subdivision plat (Estates of Lawsonia). In the fall of 2009, it was approved by the Land Use Planning and Zoning Committee. There were several conditions of that approval with one of them being an outlot that fronted on Big Green Lake and was identified by the Wisconsin Department of Natural Resources as shoreland/wetland. The Planning and Zoning Committee agreed that this outlot was to remain an open green space; no structures would be permitted on the property. It came to the department's attention that there may be some marketing going on whereby that outlot would be used for pier and shore station placement for some lots that did not front the lake. With that information, Brad Carroll (ABA contact person) was called and we double checked the protective covenants for that outlot. As a result of researching this, a listing for the original covenants (from 2009) was found as well as another set of covenants from February, 2013. That version added language to Outlot 2 standards to allow for piers and shore stations to serve those three non-water fronting lots. After discussing this further with Brad Carroll and Ben Mott, also with the ABA, both agreed that what is proposed is not in compliance. Their intent is to re-file the covenants taking that language out. They will inform potential buyers that there are no piers or shore stations for those lots. They have some other activity and proposals going on with their existing subdivision lots and asked the county if they could have more time to work through the issues so they can file updated covenants. This was discussed with Corporation Counsel Dan Hurst and he advised that the committee give them time to resolve some of those other issues. They have provided in writing that they will not be putting in piers or shore stations on Outlot 2.

Reabe – Can the time being given to them be defined?

Shute – I will contact Mr. Carroll and Mr. Mott to get a better idea of how much time they think they need.

Attorney Steve Sorenson, Davis & Kuelthau, S.C., 210 Washington Avenue, Oshkosh, WI, representing the residents of Carpenter Land (ABA) – Explained that the Carpenter Lane residents are concerned about the protective covenants being violated. The committee needs to be aware that this would be a strict violation of the intent. The document used is an unenforceable document; in fact, it's a slander in title. Wisconsin State Statute 706.085, passed in February, 2010, says that you cannot file a corrective instrument unless you file it as a corrective deed. This was done in a methodology that someone looking at this would never pick this up. A corrective deed can only change a person's name or an error in a legal description. It can't change the meaning of the document. What they did changed the meaning of the document by allowing piers for lot owners of Lots 9, 10, and 11. It needs to be known and on the record that their document that was recorded in February, 2013, is an unenforceable document because it cannot be a corrective document. What they're suggesting they're going to do is probably an inappropriate way of correcting what they say they're going to do. Right now, under the law, the original document would be controlling. The most recent document would not be controlling. This is pointed out so that no one gets hoodwinked into buying a lot and thinking this document controls anything because it really doesn't.

Starshak – Al (Shute) will be working with corporation counsel on this and will also get an appropriate time frame on all of this.

DEPARTMENT/COMMITTEE ACTIVITY

a. Continued discussion on 25-foot setbacks

Starshak – Al (Shute) has provided a written summary that includes all of the discussions the committee has had regarding the proposed 25-foot setback.

Shute – The committee is still at a place where the criteria for applying the standards need to be decided.

The committee discussed the following in regard to criteria: the property must be on water and riparian lots in the shoreland zoning area, and cannot be located on county or state highways. Shute brought up using density as a criteria and whether or not this becomes a mapping issue. The committee will discuss this again at next month's meeting. This will also be sent to the town chairmen for their input after the committee discusses this again. Shute also suggested combining this with the shoreland zoning update.

b. NR115 updates, if any

Shute – There are no updates at this time.

c. Shoreland Zoning ordinance amendment

Shute - To be fully compliant with NR115, the committee needs to amend the existing shoreland protection ordinance to include an impervious surfaces section. The deadline for doing this is February, 2014. The DNR is in the process of reviewing comments that were received at public hearings. It is tentatively scheduled to go to the Natural Resource Board in December. Information is not yet available on when and how to file for an extension.

2014 CALENDAR

Motion by Peters/Reabe, unanimously carried, to approve the amended 2014 calendar (business meetings will begin at 4:30 p.m.).

FUTURE COMMITTEE ACTIVITIES

a. Future agenda items

Shute – Tower placement is an issue as a result of the governor's budget. If the county wants to regulate them, an ordinance must be adopted. The county ordinance cannot be more restrictive than the state.

Starshak – The 25' setback should be on the next agenda as well as the high capacity irrigation wells.

b. Meeting dates

November 7, 2013

Business Meeting 4:30 p.m.

Public Hearing 6:00 p.m.

5:36 p.m. Motion by Reabe/Moderow, unanimously carried, to recess until 6:00 p.m.

Committee Chairman Starshak reconvened the meeting of the Land Use Planning and Zoning Committee at 6:01 p.m. for public hearing items and read the rules of public hearing.

PUBLIC HEARING ITEMS

Audio of committee discussion is available upon request from the Green Lake County Land Use Planning and Zoning Department.

Item I: Owners/Applicants: Lawrence T Wesse, et al, Lorraine J Wesse, Diana L Carlson
General Legal Description: N3891 County Road O, Parcel #006-00838-0000 & #006-00851-0000 (±3.49 acres), Part of the SE¼ and NE¼ of Section 13, T15N, R12E, Town of Green Lake
Explanation: Rezone from A-1 Exclusive Agriculture District to R-4 Rural Residential District.

a) Public Hearing

Lawrence Wesse, N3891 County Road O – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute reported that the Town of Green Lake has recommended approval and the request meets statutory criteria.

c) Committee Decision

On a motion by Reabe/Moderow, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item II: Owners/Applicants: Kalkstein Farm Inc, Steven Anderson
General Legal Description: N1318 County Road O, Parcel #010-00361-0100 & #010-00415-0100 (±28 acres), Part of the NW¼ of Section 20 and part of the SW¼ of Section 17, T14N, R13E, Town of Mackford
Explanation: Rezone from A-1 Exclusive Agriculture District to A-2 General Agriculture District (±23 acres) and R-4 Rural Residential District (±5 acres).

a) Public Hearing

Steve Anderson, N1318 County Road O – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute reported that the Town of Mackford has recommended approval and the request meets statutory criteria. The total acreage is 29 acres for the two parcels that is currently zoned A-1. By approving the request, you would be cleaning up a nonconforming lot size.

c) Committee Decision

On a motion by Peters/Reabe, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item III: Owners/Applicants: Genevieve R Stellmacher **Agent:** Dennis Green, Ripon Land Surveying **General Legal Description:** N6716 Forest Ridge Road, Parcel #004-00213-0300 and part of #004-00215-0000, Being Lots 1 & 2 of Certified Survey Map 3274, Part of the NW¼ and SW¼ of Section 11, T16N, R13E, Town of Brooklyn, ±23.0 acres. **Explanation:** Rezone request from A-1 Exclusive Agriculture District to A-3 Light Agriculture District.

a) Public Hearing

Dennis Green, Ripon Land Surveying – 827 W. Fond du Lac Street, Ripon – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Reabe reported that the Town of Brooklyn recommends approval.

Shute stated that, with this request, productive lands will remain in the agricultural zoning districts.

c) Committee Decision

On a motion by Reabe/Henke, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item IV: Owner/Applicant: Dornfeld Farms, Inc. & Camron & Ashley Dornfeld **General Legal Description:** N502 County Rd M, Parcel #012-00618-0000 (Dornfeld Farms, Inc.) and #012-00618-0100 (Camron & Ashley Dornfeld), Lot 1 Certified Survey Map 2960, and Part of the NE¼ of Section 32, T14N, R12E, Town of Manchester, ±9.45 acres **Explanation:** Rezone from A-1 Exclusive Agriculture District to R-4 Rural Residential District.

a) Public Hearing

No one appeared.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute – The applicants are creating a different access point to their farmland and also two R-4 parcels. The Town of Manchester recommends approval of this request and it meets state statutory criteria.

c) Committee Decision

On a motion by Peters/Reabe, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item V: Owner/Applicant: Tanya R Schwartz **General Legal Description:** County Road AK, south of Scott Hill, Parcels #006-00038-0000, #006-00042-0000, & #006-00043-0000, Part of the NE¼ of Section 3, T15N, R13E, Town of Green Lake, ±62.2 acres **Explanation:** Rezone from A-1 Exclusive Agriculture District to A-2 General Agriculture District.

a) Public Hearing

Randy Roeper, W14310 Prairie Road, Ripon – Spoke in favor of the request.

Public hearing closed.

b) Committee Discussion and Deliberation

Shute – The Town of Green Lake recommends approval of the request and it meets the state statutory criteria.

c) Committee Decision

On a motion by Henke/Reabe, carried on roll call (5-eyes, 0-nays), to recommend approval of the rezone request as presented and forward to County Board for final action.

d) Execute Determination Form/Ordinance

Item VI: Applicant: Green Lake County Land Use Planning & Zoning Committee **Explanation:** Ordinance amendment to the Code of Green Lake County, Chapter 334 of the Private Sewage Ordinance; to delete all language of Section 334-11. Wisconsin Fund.

a) Public Hearing

Shute – This is just some housekeeping in the ordinance that requires that the county receive an affidavit signed by the owner that they will maintain their septic system. By removing the language in the proposed ordinance amendment, we will no longer receive a fee that is paid by the landowner. No public comment/questions.

Public hearing closed.

b) Committee Discussion and Deliberation

Sorenson – People have been waiting for this to happen. The \$30 recording fee savings is huge for so many people.

c) Committee Decision

On a motion by Reabe/Peters, unanimously carried on roll call (5-ayes, 0-nays), to forward the Section 334-11 ordinance amendment to the County Board for final action.

d) Execute Determination Form/Ordinance

Item VII: Applicant: Green Lake County Land Use Planning & Zoning Committee
Explanation: Ordinance amendment to the Code of Green Lake County, Chapter 350, Article IV of the Zoning Ordinance; to amend language of Section 350-28. A-2 General Agricultural District, and Section 350-29. A-3 Light Agricultural District, combining both into one agricultural district.

a) Public Hearing

Shute – Explained that this amendment will combine the A-2 and A-3 districts.

Phil Anastasi, Town of Marquette Chairman – Spoke against portions of the ag combination; i.e. (1) 8-acre parcels that are allowed to have an unlimited number of livestock, and (2) home occupations with residents prohibited from selling products from their homes. How is this enforced? Requested that the committee modify these two sections.

Brian Zimmermann, 5830 W. Puckaway Road – Objected to allowing duplexes in A-2 zoning. Nowhere in the existing ordinance is it an allowable use. In 2009, the Town of Marquette revised its comprehensive plan and, in part of the plan, the primary goal for the town is to maintain the rural character and preserve farmland. Asked that the committee reconsider allowing duplexes and possibly allowing those with a conditional use permit. The town plan specifically states that single-family dwellings will be the primary development.

Dick Severson – N3496 State Road 73, Town of Marquette – Addressing the land that is located at 3810 Old Ditch Road. In 1982, this piece of land was rezoned to A-3 without me realizing it. Now it will become A-2 and there will be more restrictions on my land that I do not want. This should be tabled and studied more.

Starshak – Assured Mr. Severson that he is a conforming A-3. The committee is not aware of changing any of his uses by combining the two ag districts.

Severson – Asked that the minutes reflect that none of the uses will change for his property.

Shute – That can't be done because we don't have an inventory of what you have.

Moderow – Stated that he is confused as to what the Town of Marquette wants. Mr. Anastasi is asking for more restrictions on everything. Mr. Severson doesn't want restrictions on anything. The committee has heard this for months with no resolution as to what the town actually wants.

Henke – The county doesn't have anything to say about the number of animals because the state has said that the county can't be more restrictive than the state.

Shute – The state has a list of standards that dictates how those facilities operate.

Zimmermann – What was the impetus for putting the duplex into the ordinance?

Shute – The initial thought was to allow it for one generation to live close to and be able to take care of another generation.

Starshak – Asked how the committee felt about moving the duplex to a conditional use permit.

Shute – Advised the committee that it would be difficult to remove a duplex once it is built. Every R-4 rezone request that has been approved since the ordinance was amended allows for a duplex.

Public hearing closed.

b) Committee Discussion and Deliberation

Starshak – Suggested that the committee strike duplexes from the proposed ordinance because there doesn't seem to be a need for it.

c) Committee Decision

On a motion by Peters/Moderow, unanimously carried on roll call (5-ayes, 0-nays), to strike “duplexes” from the proposed A-2 ordinance uses and forward Sections 350-28. A-2 General Agricultural District and Section 350-29. A-3 Light Agricultural District to the county board for final approval.

d) Execute Determination Form/Ordinance

ADJOURN

On a motion by Henke/Moderow, unanimously carried, the committee adjourned.

Time: 7:04 p.m.

RECORDED BY

Carole DeCramer
Committee Secretary

APROVED ON:

November 7, 2013